

1 MCGREGOR W. SCOTT  
United States Attorney  
2 ANDRÉ M. ESPINOSA  
AMY S. HITCHCOCK  
3 TANYA B. SYED  
Assistant United States Attorney  
4 501 I Street, Suite 10-100  
Sacramento, CA 95814  
5 Telephone: (916) 554-2700

6 Attorneys for Plaintiff  
United States of America  
7

8  
9 IN THE UNITED STATES DISTRICT COURT  
10 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 RONALD STEVEN SCHOENFELD,  
15 Defendant.

CASE NO. 2:20-CR-0150 KJM  
STIPULATION REGARDING USE OF  
VIDEOCONFERENCING DURING PLEA  
HEARING; FINDINGS AND ORDER  
DATE: August 31, 2020  
TIME: 9:00 a.m.  
COURT: Hon. Kimberly J. Mueller

16  
17 **BACKGROUND**

18 On August 10, 2020, the parties entered into a plea agreement in the above-referenced matter and  
19 the defendant agreed to waive indictment. On August 13, 2020, the government filed an Information in  
20 the above-referenced matter. On August 21, 2020, the defendant waived indictment. On August 21,  
21 2020, the parties filed a notice to set this matter for a change of plea on August 31, 2020.

22 On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act  
23 (“CARES Act”). The CARES Act empowered the Judicial Conference of the United States and Chief  
24 District Judges to authorize plea and sentencing hearings by video or telephonic conference when (1)  
25 such hearings “cannot be conducted in person without seriously jeopardizing public health and safety;”  
26 and (2) “the district judge in a particular case finds for specific reasons that the plea or sentencing in that  
27 case cannot be further delayed without serious harm to the interests of justice.” *Id.*, Pub. L. 116-23  
28 § 15002(b)(2).

1 On March 29, 2020, the Judicial Conference of the United States made the findings required by  
2 the CARES Act, concluding that “emergency conditions due to the national emergency declared by the  
3 President under the National Emergencies Act (50 U.S.C. § 1601, et seq.) with respect to the  
4 Coronavirus Disease 2019 (COVID-19) have materially affected and will materially affect the  
5 functioning of the federal courts generally.”

6 On June 29, 2020, the Chief Judge of this District, per General Order 620, also made the findings  
7 required by the CARES Act: “[F]elony pleas under Rule 11 of the Federal Rules of Criminal Procedure  
8 and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure cannot be conducted  
9 in person without seriously jeopardizing public health and safety.” Accordingly, the findings of the  
10 Judicial Conference and General Order 620 establish that plea and sentencing hearings cannot take  
11 safely take place in person.

12 In order to authorize plea hearings by remote means, however, the CARES Act—as implemented  
13 by General Order 620—also requires district courts in individual cases to “find, for specific reasons, that  
14 felony pleas or sentencings in those cases cannot be further delayed without serious harm to the interests  
15 of justice.” General Order 620 further requires that the defendant consent to remote proceedings.  
16 Finally, the remote proceeding must be conducted by videoconference unless “videoconferencing is not  
17 reasonably available.” In such cases, district courts may conduct hearings by teleconference.

18 The parties hereby stipulate and agree that each of the requirements of the CARES Act and  
19 General Order 620 have been satisfied in this case. They request that the Court enter an order making  
20 the specific findings required by the CARES Act and General Order 620. Specifically, for the reasons  
21 further set forth below, the parties agree that:

22 1) The plea hearing in this case cannot be further delayed without serious harm to the  
23 interest of justice, given the public health restrictions on physical contact and court closures existing in  
24 the Eastern District of California; and

25 2) The defendant waives his physical presence at the hearing and consents to remote hearing  
26 by videoconference and counsel joins in that waiver.

27 **STIPULATION**

28 Plaintiff United States of America, by and through its counsel of record, and defendant, by and

1 through defendant's counsel of record, hereby stipulate as follows:

2 1. The Governor of the State of California declared a Proclamation of a State of Emergency  
3 to exist in California on March 4, 2020.

4 2. On March 13, 2020, the President of the United States issued a proclamation declaring a  
5 National Emergency in response to the COVID-19 pandemic.

6 3. In their continuing guidance, the Centers for Disease Control and Prevention (CDC) and  
7 other public health authorities have suggested the public avoid social gatherings in groups of more than  
8 10 people and practice physical distancing (within about six feet) between individuals to potentially  
9 slow the spread of COVID-19. The virus is thought to spread mainly from person-to-person contact,  
10 and no vaccine currently exists.

11 4. These social distancing guidelines – which are essential to combatting the virus – are  
12 generally not compatible with holding in-person court hearings.

13 5. On March 17, 2020, this Court issued General Order 611, noting the President and  
14 Governor of California's emergency declarations and CDC guidance, and indicating that public health  
15 authorities within the Eastern District had taken measures to limit the size of gatherings and practice  
16 social distancing. The Order suspended all jury trials in the Eastern District of California scheduled to  
17 commence before May 1, 2020.

18 6. On March 18, 2020, this Court issued General Order 612. The Order closed each of the  
19 courthouses in the Eastern District of California to the public. It further authorized assigned district  
20 court judges to continue criminal matters after May 1, 2020 and excluded time under the Speedy Trial  
21 Act. General Order 612 incorporated General Order 611's findings regarding the health dangers posed  
22 by the pandemic.

23 7. On April 16, 2020, the Judicial Council of the Ninth Circuit declared a judicial  
24 emergency in this District pursuant to 18 U.S.C. § 3174(d), based on the District's "critically low  
25 resources across its heavy caseload." The report accompanying the Judicial Council's declaration  
26 analyzed the public safety dangers associated with the COVID-19 pandemic and examined both the  
27 District's caseload (the District currently ranks first in the Ninth Circuit and eighth nationally in  
28 weighted filings) and its shortage of judicial resources (the District is currently authorized only six

1 district judges; two of those positions are currently vacant and without nominations). The report further  
2 explained that a backlog of cases exists that “can only start to be alleviated” when the CDC lifts its  
3 guidance regarding gatherings of individuals.

4 8. On April 17, 2020, this Court issued General Order 617, continuing court closures  
5 through June 1, 2020 and authorizing further continuances of hearings and exclusions under the Speedy  
6 Trial Act.

7 9. On May 13, 2020, this Court issued General Order 618, continuing court closures until  
8 further notice and authorizing further continuances of hearings and exclusions under the Speedy Trial  
9 Act.

10 10. On June 29, 2020, this Court issued General Order 620, finding that felony pleas could  
11 not be conducted in person without seriously jeopardizing public health and safety.

12 11. Given these facts, it is essential that Judges in this District resolve as many matters as  
13 possible via videoconference and teleconference during the COVID-19 pandemic. By holding these  
14 hearings now, this District will be in a better position to work through the backlog of criminal and civil  
15 matters once in-person hearings resume.

16 12. The defendant has an interest in resolving his case by guilty plea and proceeding to  
17 sentencing. The plea hearing in this case accordingly cannot be further delayed without serious harm to  
18 the interests of justice. If the Court were to delay this hearing until it can be held in-person, it would  
19 only add to the enormous backlog of criminal and civil matters facing this Court, and every Judge in this  
20 District, when normal operations resume.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

13. Under CARES Act § 15002(b), defendant consents to proceed with this hearing by video-  
teleconference. Counsel joins in this consent.

IT IS SO STIPULATED.

Dated: August 25, 2020

McGREGOR W. SCOTT  
United States Attorney

/s/ TANYA B. SYED  
TANYA B. SYED  
Assistant United States Attorney

Dated: August 25, 2020

/s/ CHRIS CANNON  
CHRIS CANNON  
Counsel for Defendant  
RONALD STEVEN  
SCHOENFELD

### FINDINGS AND ORDER

1. The Court adopts the findings above.

2. Further, the Court specifically finds that:

a) The plea hearing in this case cannot be further delayed without serious harm to  
the interest of justice; and

b) The defendant has waived his physical presence at the hearing and consents to  
remote hearing by videoconference.

3. Therefore, based on the findings above, and under the Court's authority under § 15002(b)  
of the CARES Act and General Order 620, the plea hearing in this case will be conducted by  
videoconference.

IT IS SO FOUND AND ORDERED this 26th day of August, 2020.

  
CHIEF UNITED STATES DISTRICT JUDGE